

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 585 – SB 1138

February 24, 2021

SUMMARY OF BILL: Increases the penalty for harassment by one classification, if the person committed the offense on the basis of the victim's actual or perceived employment as a first responder.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$458,500 Incarceration*

Decrease Local Expenditures – \$37,300/FY21-22 and Subsequent Years

Assumptions:

- The proposed legislation specifies that a first responder includes, but is not limited to:
 - A correctional officer employed by the Department of Correction (DOC);
 - An emergency medical technician;
 - A firefighter;
 - A law enforcement officer; or
 - Any other person who responds to calls for emergency assistance
- Tenn. Code Ann. § 39-17-308 outlines Class A misdemeanor and Class E felony offenses of harassment.
- Based on information provided by Administrative Office of the Courts, there has been an average of 68.2 Class A misdemeanor convictions for harassment each year over the last five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there is a total of 682 convictions ($68.2 / 10\% = 682$) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-308.
- This analysis estimates that 5 percent, or 34.1 ($682 \times 5\%$), of convictions will result in enhancement to Class E felony admissions under the proposed legislation.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 2.8 ($34.1 \times 8.3\%$) additional admissions for a total of 37 ($34.1 + 2.8$).
- According to DOC, 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to

account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation (37 offenders x 30.79% = 11 offenders).

- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class E felony is 0.60 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 26 (37 - 11 recidivism discount) offenders will be admitted every year serving 219.15 days (0.60 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$458,453 (\$80.46 x 219.15 x 26).
- This analysis assumes individuals convicted of a Class A misdemeanor harassment offense are spending an average of 15 days in local jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$37,340 (\$73 x 34.1 offenders x 15 days) in FY21-22 and subsequent years.
- Based on information provided by the DOC, there has been an average of 0.6 Class E felony admissions of harassment each year over the past five years.
- Any impact to state incarceration resulting from enhancing such offenses in outlined circumstances to a Class D felony is estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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